

**State of California  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION AGENDA**

**Government Code § 11126 (a), (c)(3), and (e)  
For**

**Wednesday, October 15, 2008**

**10:00 AM**

**Sacramento, California  
&  
West Covina, California**

**TO: Members of the California Occupational Safety and Health  
Appeals Board**

**FROM: J. Jeffrey Mojcher, Chief Counsel**

**DATE: October 3, 2008**

**RE: Closed Session of the Board on October 15, 2008**

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

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**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

*(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)*

1. ROBERT BERNHARD dba BERNHARD ROBERT COATINGS, 07-R1D1-4531
2. DAVID J. BIRD dba IN STYLE FLOORING AND ITS SUCCESSORS, 08-R3D1-1399 AND 1400
3. CABINETS 2000, INC., 07-R4D4-3986 THROUGH 3988
4. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456

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5. NORTHLAND CONTROL SYSTEMS, INC., 06-R1D4-3345
6. SAN DIEGO STATE UNIVERSITY, 08-R3D2-912

**DECISION ON REMAND:**

1. STOCKTON TRI-INDUSTRIES, INC. 02-R5D1-4946

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

1. 99 CENTS ONLY STORES, 06-R4D2-1313 THROUGH 1315
2. 555 AUTO BODY REPAIR, 08-R6D5-2292
3. ALHAMBRA FOUNDRY CO., LTD, 08-R4D2-2145 AND 2146
4. ALLIED WHEEL COMPONENTS, 07-R6D2-223 THROUGH 236
5. AMR, INC., 08-R4D2-1749
6. ANDPAK, INC., 07-R6D3-4072 THROUGH 4075
7. ARECON, INC., 08-R3D2-175
8. BOB FRENCH CONSTRUCTION INC., 08-R4D1-323
9. BURTECH PIPELINE INC., 08-R3D2-2947 AND 2948
10. CALIFORNIA EXPANDED METAL PRODUCTS CO. dba CEMCO, 07-R2D2-3765 AND 3766
11. CALIFORNIA INDUSTRIAL RUBBER, 06-R2D3-4346 THROUGH 4348
12. CALIFORNIA MUSHROOM FARM, 08-R4D3-597
13. CAST IN PLACE CONSTRUCTION, 08-R4D2-2009 THROUGH 2011
14. CITY OF MANTECA-SOLID WASTE DEPT, 07-R2D4-2109

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15. COAST REBAR SERVICES INC., 06-R4D2-2346 AND 2347
16. COLIMA NURSERY, 07-R4D4-4465
17. COLUMBIA HELICOPTERS INC., 07-R1D5-268
18. D.C. MARKETING, INC., 08-R4D1-2403 THROUGH 2405
19. DE NOVA HOMES, INC., 07-R2D4-3310
20. DTE REBAR & POST TENSION, INC., 08-R4D1-1161
21. DENNIS SHAFFER PAINTING, INC., 08-R4D3-328
22. DISCOVERY FOODS LLC, HAYWARD DISCOVERY FOODS, LP, 07-R1D4-1776  
THROUGH 1779
23. DRIFTWOOD DAIRY, 06-R6D2-1954 AND 1955
24. DURHAM SCHOOL SERVICES, 07-R1D2-5151 AND 5152
25. FISHER RANCH CORPORATION, 08-R6D5-3243 THROUGH 3249
26. FORCE FRAMING INC., 08-R3D1-2104
27. G & A REFRIGERATION, 08-R3D5-437
28. GALINA'S TAILORING & ALTERATIONS, 08-R6D5-2217 AND 2218
29. GOLDEN GATE STEEL, INC., 08-R4D1-2270 THROUGH 2273
30. GREGORY RODRIGUEZ ROOFING, 08-R3D2-728
31. HALL'S SAFE CO., 06-R2D1-4578 THROUGH 4580
32. HELD PROPERTIES, INC., 08-R4D1-1627 AND 1628
33. HENWAY, INC. dba ANATASE PRODUCTS, 07-R6D2-5425 THROUGH 5430
34. HORATIO HIDALGO dba BASILIUS, 07-R6D2-4935
35. HIGH TECH ELECTRIC INC., 07-R2D1-2009 AND 2010
36. INLAND ENVELOPE COMPANY, 08-R6D2-1539 THROUGH 1544

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37. INTERNATIONAL SURFACING SYSTEMS, 07-R5D1-3081
38. INTERNATIONAL TRANSPORTATION SERVICE, INC., 07-R6D2-3824
39. JACK HARRISON BUICK, PONTIAC, GMC, 08-R3D2-1606
40. JACK NEAL & SON, INC., 07-R1D5-1123
41. JEMA CONSTRUCTION, 08-R4D1-2912 AND 2913
42. JET PROPULSION LABORATORY, 08-R4D2-1100 THROUGH 1102
43. KELLOGG SUPPLY, INC., 07-R3D3-3586 AND 3587
44. KEN McMURRAY CONSTRUCTION, 08-R3D1-2073
45. KIRKLEY CORPORATION, 08-R4D4-1757 THROUGH 1760
46. LA COSTA FLOWER SHOP & NURSERY AND BILL GISH, A GENERAL PARTNERSHIP, 08-R6D5-2576 THROUGH 2578
47. LARRY JACINTO CONSTRUCTION, INC., 07-R3D3-4693 THROUGH 4696
48. LONGS DRUGS, 07-R2D4-2824 THROUGH 2828
49. ROBERT A. LOVINGOOD dba ICR STAFFING, INC., 07-R3D3-5353
50. ROBERT A. LOVINGOOD INC dba INDUSTRIAL CLERICAL REC, 07-R3D3-3461
51. LYNWOOD USD – LYNWOOD HIGH SCHOOL, 08-R4D2-1745 THROUGH 1748
52. McANALLY ENTERPRISES, LLC, 08-R3D3-2141 AND 2142
53. McCABE'S NURSERY/GALLERY OF GRAINS, 08-R6D5-2059
54. MARCOS DONALD INVESTMENTS, INC., 06-R4D4-2623 THROUGH 2625
55. MEGA PRINT, INC., 08-R4D1-2328 AND 2329
56. METROPOLITAN WATER DISTRICT – GENE PUMP PLANT, 07-R3D3-3966 AND 3967
57. MIKE CAMPBELL & ASSOCIATES, LTD, 07-R3D3-5006

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58. MONROVIA GROWERS COMPANY, 08-R6D3-626 THROUGH 628, 08-R6D3-2943 AND 2944
59. NASSCO, 08-R6D2-352 THROUGH 354
60. NYK LOGISTICS AMERICA, INC., 07-R3D5-5200 AND 5201
61. NEW ALBERTSON'S INC., 07-R3D1-2029
62. NEWSTAR FRESH FOODS LLC, 08-R1D2-659
63. NORCO RANCH INC., 08-R6D5-2798
64. ELIECER NORIEGA, 06-R4D4-3253 THROUGH 3255, 08-R4D4-3784
65. OWENS ILLINOIS, INC., 08-R4D2-1524 THROUGH 1526
66. PACIFIC CONSTRUCTION COMPANY, 08-R4D4-932
67. PACIFIC PRODUCTION FRAMING GROUP, 07-R3D3-3807
68. PACIFICA PLASTERING, INC., 08-R4D4-476 THROUGH 478
69. PACKAGING PLUS, LLC, 08-R4D4-96
70. PARKWAY CONSTRUCTION & ASSOCIATES, 08-R3D2-1983
71. PAULA KRIEGER ENTERPRISES, INC. dba SANTIAGO FOOD, 07-R3D1-4027
72. PEDROS FASHION, 07-R6D2-5085 AND 5086
73. CLOS PEPE, 07-R4D3-3817
74. PETERSON-DEAN COMMERCIAL INC., 07-R2D2-5100
75. PHILIP SIMON DEVELOPMENT USA, INC., 08-R4D1-1158 AND 1159
76. PLASTIC INDUSTRIES, 08-R3D1-723
77. POLYVISION CORPORATION, 08-R3D3-311 AND 312
78. QUICKBITES, INC. [DEL TACO 1003], 07-R3D3-3323
79. REAL MEX FOODS, 08-R4D2-2077 AND 2078

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80. REAL PROPERTY MD, LLC, 07-R4D4-3984 AND 3985
81. RELIABLE TRUSS, INC., 07-R6D2-3614 THROUGH 3616
82. ROSSCRETE ROOFING, INC., 06-R3D3-4139 AND 4140
83. ROYAL INDUSTRIES dba ROYAL CABINETS, 08-R4D4-1016
84. ROZEMA CORP. dba R & R PLASTER, 08-R3D3-748
85. SCG ELECTRIC, 08-R4D1-2281
86. SCHNEIDER LOGISTICS DIV SCHNEIDER NATIONAL CARRIERS, 08-R3D3-840
87. SCRIMSHER CONSTRUCTION DEVELOPMENT, INC., 08-R4D1-2265 THROUGH 2269
88. SINCERE ORIENT COMMERCIAL CORP., 08-R4D4-1754 THROUGH 1756
89. SOURCE ONE STAFFING, 08-R3D2-990 AND 991
90. SOUTHWEST HAULING, DISPOSAL & DEMOLITION, INC., 08-R4D1-2111
91. STAFF CHEX INC., 07-R3D3-3809
92. STARCO ENTERPRISES, INC., 08-R4D2-2147 AND 2148
93. STERLING TEAL, INC., 08-R3D1-1731 AND 1732
94. STROCAL, INC., 07-R4D1-4437
95. TLC REMODELING, 07-R3D3-4416
96. JERRY TALIAFERRO, 08-R3D2-1403 THROUGH 1405
97. TAQUERIA LA ESTRELLA, INC., 08-R6D5-2060 AND 2061
98. THE TONIGHT SHOW, 07-R4D1-4897 THROUGH 4901
99. THOMAS CRANE & TRUCKING CO., 07-R5D2-5114 AND 5115
100. TIMEC dba TIME COMPANY, INC., 07-R3D7-3697 AND 3698
101. TRIPLE A TRUCK WASH, 08-R6D5-2036

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102. USC UNIVERSITY HOSPITAL, 08-R4D2-2149
103. UNITED CAPITAL INVESTMENT GROUP, INC., dba SUNKIST AUTO SPA, 08-R3D1-725 THROUGH 727, 08-R3D1-3574
104. VALET SERVICES, 06-R4D4-5318 THROUGH 5320
105. VANPORT WAREHOUSING, INC., 08-R3D3-2391 THROUGH 2394
106. VANS INTERNATIONAL FOODS, 08-R4D2-2052 AND 2053
107. VOUGHT AIRCRAFT INDUSTRIES K-6 FACILITY, 06-R3D5-4792 THROUGH 4794
108. VRACKO CONSTRUCTION, INC., 08-R4D1-2005 THROUGH 2008
109. WASHINGTON GROUP INTERNATIONAL OBAYASHI, 08-R3D3-1072 AND 1073
110. WEBCOR CONSTRUCTION INC. dba WEBCOR CONCRETE, 07-R1D1-4296 AND 4297
111. WILD CHERRY CLOTHING dba CARILYN VAILE, 07-R3D5-3329 AND 3330
112. YOUNG FASHION, INC., 07-R4D1-4430 THROUGH 4432

**ORDERS DENYING LEAVE TO FILE LATE APPEAL:**

1. CAMERON METAL CUTTING, 08-R6D2-9059
2. JOHNSON IRON INC., 08-R2D1-9050
3. KEETON CONSTRUCTION, 08-R3D3-9055
4. PREMIER PUMPING, LLC, 08-R2D1-9051
5. SUCCESS VALLEY CONTRACTOR SERVICES, 08-R2D5-9054
6. SUNNY TRUCK WASH, 08-R2D5-9122

**ORDERS DISMISSING APPEALS:**

1. BERNARD KARCHER INVESTMENTS INC. dba CARL'S JR., 08-R3D3-9333
2. CA CDCR, CALIFORNIA STATE PRISON, SOLANO, 08-R2D2-9367
3. COSTCO WHOLESALE, 08-R3D3-9334
4. CRAFTON CARTON dba SIERRA PACKAGING, 08-R1D4-9345
5. CUSTOM ALLOY SCRAP SALES, INC, 08-R1D4-9320
6. CUSTOM MARBLE & TILE dba OLYMPIC STONE, 08-R3D1-418
7. DRAGON PANDA SHIRTS, INC., 08-R6D5-1042
8. EDWARD DOUGHTY dba ED BUILDERS, 08-R1D5-9321
9. EDITH SEWING, 08-R3D2-9323
10. EL DORADO TRUSS COMPANY, INC., 08-R6D1-9291
11. FULCRUM INDUSTRIES, INC., 08-R6D1-9317
12. GCM FARMS, 06-R2D5-911
13. HACIENDA DEL PATRON, 06-R3D2-3147 AND 3148
14. LEVITZ FURNITURE, 06-R2D1-4211
15. McCARTHY CLARK HUNT, MCH, A JOINT VENTURE, 08-R4D2-1058
16. MAGIC CAR WASH, 07-R2D1-908
17. MALDONADO'S GROWERS, 08-R6D5-9302
18. MIGUEL T. SOTO CONSTRUCTION CO., INC., 08-R1D4-9311
19. OASIS WASH N LUBE, 07-R2D1-639
20. PAG DALY CITY, LLC dba CITY TOYOTA, 08-R1D3-9282
21. PINNACLE AQUATIC, 08-R1D4-9363

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22. PLATE AND PATCH, INC., 03-R1D4-84 THROUGH 86
23. RA CONSTRUCTION & REPAIRS CO, 08-R4D1-9287
24. RTR INVESTMENTS, 06-R2D1-4014 AND 4015
25. TERRA LINDA FARMS, 05-R2D5-1312
26. TONG'S CONSTRUCTION, 08-R1D4-9364
27. TOO GOOD GOURMET, 08-R1D4-9330
28. VIATRON SYSTEMS, INC., 08-R4D1-9326

**ORDERS DISMISSING LATE APPEALS:**

1. CREATIVE COMPOSITION, INC., 08-R2D3-9053
2. RANJIT DAVIT, 08-R2D3-9119
3. KENOS RESTAURANT, 08-R3D1-9123
4. GASPAR BALTAZAR MENDEZ dba SUCCESS VALLEY CONTRACT, 08-R2D4-9035

**STIPULATIONS:**

1. KINDER MORGAN ENERGY PARTNERS, LP, 05-R2D4-2013 AND 2014

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

1. FORTUNA IRON WORKS, 06-R2D3-4222
2. GALAXIE UNIVERSAL CORP. dba GAMCO INDUSTRIES, 06-R6D2-367 THROUGH 370, 06-R6D2-867
3. MENDOTA UNIFIED SCHOOL DISTRICT, 07-R2D5-3572

4. PAGE MILL PROPERTY SERVICES LLC, 08-R1D3-9275

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):**

1. BENGARD RANCH, INC., 07-R1D2-4596 AND 4597
2. REICON BUILDERS, INC., 07-R4D1-4902 AND 4903
3. SUPERIOR READY MIX CONCRETE, 07-R5D3-9474

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

1. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. ASC PROFILES, INC., 06-R2D1-1181
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA DAIRIES, INC., 07-R6D2-2076 THROUGH 2081
13. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96

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14. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
15. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351
16. COX COMMUNICATIONS, 03-R3D2-1942
17. DADE BEHRING, 05-R2D1-2203
18. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
19. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
20. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
21. DYNALECTRIC, 03-R1D1-4101
22. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
23. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
24. G.T. ALDERMAN, INC., 05-R4D3-3513
25. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
26. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
27. GLASS PAK, 03-R2D2-750 AND 751
28. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
29. HELPMATES STAFFING SERVICES, 05-R3D3-2239
30. HUSSMAN CORPORATION, 03-R3D1-2939
31. ILH CONSTRUCTION, 02-R1D1-4172
32. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
33. JENSEN PRECAST, 05-R2D1-2377
34. JOHN LAING HOMES, 04-R3D1-194 AND 195
35. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968

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36. KELLY SERVICES, INC., 06-R1D2-1024
37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
38. LA TOURAINÉ, INC., 08-R6D2-9214
39. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
40. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
41. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552  
THROUGH 1554
42. O & M INDUSTRIES, 04-R1D5-1597
43. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
44. PMR RACE CARS, 03-R3D3-1825
45. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
46. QUEMETCO, 08-R4D4-94 AND 95
47. RII PLASTERING INC., 02-R3D1-2679
48. R & L BROSAMER, INC., 03-R1D5-4832
49. RUIZ FOOD PRODUCTS, 06-R2D5-2582
50. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
51. SIMON SAYS ROOFING, 06-R1D2-2652
52. STACY & WITBECK, INC., 05-R1D1-1142
53. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH  
1692
54. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
55. TEICHERT AGGREGATES, 04-R5D1-2982
56. THE HERRICK CORP., 07-R3D1-495

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- 57. TRIO METAL, 03-R4D4-317
- 58. U S AIRWAYS, 08-R1D3-9153
- 59. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
- 60. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
- 61. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

**PENDING LITIGATION:**

*(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**SUPERIOR COURT:**

- 1. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
- 2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
- 3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
- 4. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
- 5. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
- 6. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
- 7. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
- 8. MURRAY COMPANY, BS112469 (07-9190/9192)
- 9. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
- 10. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (00-440)
- 11. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)

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12. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)

**OTHER LEGAL MATTERS:**

*(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)*

**PERSONNEL:**

*(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.